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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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12
13 TRACY P. GODSHALL,
14 Petitioner,

15 v.

16 SUPERIOR COURT OF ORANGE
17 COUNTY,

18 Respondent.

Case No. SA CV 16-34 JFW (MRW)

**ORDER DISMISSING PREMATURE
HABEAS PETITION**

19 The Court summarily dismisses this prematurely-filed habeas action.
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22 Petitioner is a prisoner at the Orange County Jail. He was convicted in 2015
23 of assault with a deadly weapon. Petitioner contends that he is awaiting sentencing
24 on that conviction. (Docket # 1 at 2.) He has not appealed his criminal conviction
25 to the state appellate or supreme court. In his habeas petition, Petitioner claims
26 that he was unlawfully arrested, improperly held over for trial after a preliminary
27 hearing, and asserts various violations of his rights to access to the courts and to
28 effective assistance of counsel. (Docket # 1, 4.)

1 Magistrate Judge Wilner preliminarily reviewed the petition. Judge Wilner
2 directed Petitioner to explain why this federal court could properly hear any of his
3 claims at this stage of his criminal case. In his response (Docket # 4), Petitioner
4 broadly referred to the general habeas statute under 28 U.S.C. § 2241 (rather than
5 the specific provisions of AEDPA applicable to convicted state prisoners).

6 * * *

7 Pursuant to 28 U.S.C. § 2241, the Court may have jurisdiction to consider a
8 habeas petition brought by a pre-trial or pre-sentence detainee such as Petitioner.
9 However, federal courts generally abstain from interfering with pending state
10 criminal proceedings until the conviction becomes final after the conclusion of a
11 criminal case on appeal. Braden v. 30th Judicial Circuit Court of Kentucky, 410
12 U.S. 484, 489 (1973) (prisoner seeking pre-conviction habeas relief under
13 Section 2241 must await the outcome of his state proceedings before seeking
14 federal habeas relief absent “special circumstances”).

15 Fundamental principles of “comity and federalism” prohibit federal courts
16 from intervening in ongoing state actions. Younger v. Harris, 401 U.S. 37, 45
17 (1971). Younger abstention “is appropriate if (1) there are ongoing state judicial
18 proceedings, (2) the proceedings implicate important state interests, and (3) there is
19 adequate opportunity in the state proceedings to raise federal questions.” Dubinka
20 v. Judges of Superior Court, 23 F.3d 218, 223 (9th Cir. 1994). To that end, federal
21 courts recognize that “the States’ interest in administering their criminal justice
22 systems free from federal interference is one of the most powerful of the
23 considerations that should influence a court considering equitable types of relief.”
24 Kelly v. Robinson, 479 U.S. 36, 49 (1986)

25 Nevertheless, as a narrow exception to this rule, a prisoner may seek pre-
26 conviction habeas relief by demonstrating certain limited, “extraordinary
27 circumstances” that may warrant federal intervention. Brown v. Ahern, 676 F.3d
28

1 899, 900 (9th Cir. 2012). The “only exceptions” to the general rule of federal
 2 abstention are “cases of proven harassment or prosecutions undertaken by state
 3 officials in bad faith without hope of obtaining a valid conviction or where
 4 irreparable injury can be shown.” *Id.* at 901 (quoting Carden v. Montana, 626 F.2d
 5 82, 84 (9th Cir. 1980)).

6 * * *

7 Petitioner fails to meet this vigorous standard. Petitioner has not been
 8 sentenced yet. He also does not appear to have exercised his right to post-
 9 conviction appellate relief in the state court system. Petitioner’s claims are of the
 10 type that traditionally can be and are raised in such appellate proceedings.
 11 Petitioner fails to demonstrate that he lacks the opportunity to raise his
 12 constitutional claims on appeal following his conviction. Dubinka, 23 F.3d at 224.
 13 Further, Petitioner fails to demonstrate a proven claim of bad faith or extraordinary
 14 circumstances by local officials regarding his criminal case. Brown, 676 F.3d
 15 at 901. Accordingly, Younger abstention “requires dismissal of a habeas petition
 16 that prematurely” raises allegations of constitutional injury.¹ *Id.* at 903; Braden,
 17 410 U.S. at 489.

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 21 ¹ In liberally reading Petitioner’s pro se filing, the Court could
 22 potentially construe Petitioner’s access-to-courts claim as a civil rights cause of
 23 action under 42 U.S.C. § 1983. Although the Court has discretion to convert a
 24 habeas petition into a civil rights complaint, it declines to do so here. See
 25 Wilwording v. Swenson, 404 U.S. 249, 251 (1971) (superseded by statute on other
 grounds). The petition is too vague in identifying any culpable tortfeasor, and does
 not adequately set forth all elements of such a claim. Moreover, Petitioner would
 be liable for a considerably higher filing fee should the Court automatically
 convert the petition to a civil complaint.

26 The Court also has no basis to consider Petitioner’s claims under
 27 AEDPA [28 U.S.C. § 2254]. Petitioner’s claims are entirely unexhausted, as he
 28 has not presented them yet to the state’s highest court before coming to federal
 court.

1 The current action is premature and must be dismissed pursuant to the
2 Younger doctrine. Therefore, the Petition is DISMISSED without prejudice.

3 IT IS SO ORDERED.

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5 Dated: 2/11/16


6 HON. JOHN F. WALTER
7 UNITED STATES DISTRICT JUDGE
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10 Presented by:

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13 HON. MICHAEL R. WILNER
14 UNITED STATES MAGISTRATE JUDGE
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